Public Servants Disclosure Protection Tribunal Canada

2009-2010

Departmental Performance Report

The Honourable James Moore
Minister of Canadian Heritage and Official Languages

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Registrar's Message

I am pleased to present the *2009-2010 Departmental Performance Report* for the Public Servants Disclosure Protection Tribunal (the Tribunal).

The report describes the Tribunal's achievements and results for the 2009-2010 fiscal year, the second full year of the Tribunal's operation. The Tribunal's mandate is derived from the *Public Servants Disclosure Protection Act* (the Act), which is designed to encourage public servants to report wrongdoing by providing protection against reprisals.

The Tribunal was created to hear reprisal complaints filed by public servants and referred by the Public Sector Integrity Commissioner. Tribunal members, who are judges of the Federal Court, have the power to grant remedies to complainants who have been subject to reprisals and to impose disciplinary actions against persons who have taken reprisals. The Tribunal is assisted by a Registry which presently consists of four full-time employees.

No cases have been referred to the Tribunal since its inception in 2007. As a result, it is not possible to assess the Tribunal's performance against its strategic outcome. In the absence of cases, the Registry has focused its efforts on enhancing awareness of the Tribunal and its extensive powers to protect public servants who disclose wrongdoings. It has also conducted studies that will inform the review of the Act in 2012. The Tribunal spent just over 50% of its budget in 2009-2010.

SECTION I: DEPARTMENTAL OVERVIEW

Raison d'être

The Tribunal was established to protect public servants who disclose wrongdoing from reprisals.

Responsibilities

The Tribunal is an independent quasi-judicial body responsible for hearing reprisal complaints referred by the Public Sector Integrity Commissioner. The Registry provides administrative and legal services to the Tribunal.

Strategic Outcome and Program Activity Architecture (PAA)

Strategic Outcome

Remedial and disciplinary actions that ensure complainants to the Office of the Public Sector Integrity Commissioner are protected against reprisals.

Program Activity

Reprisal Hearings Program

Expected Results

Effective management of the Tribunal's hearing process

Summary of Performance

2009–10 Financial Resources (thousands of dollars)

Planned Spending	Total Authorities	Actual Spending
1,828	1,835	944

2009–10 Human Resources (FTEs)

Planned	Actual	Difference
12	4	8

Strategic Outcome: Remedial and disciplinary actions to ensure complaints to the Office of the Public Sector Integrity Commissioner are protected against reprisals.		
Performance Indicators	**Targets**	**2009–10 Performance**
Number of decisions and/or orders issued within 250 calendar days from the commencement of a proceeding	90% of proceedings are completed within 250 calendar days	No cases were referred to the Tribunal during the reference period.
Degree to which the evidence and the written communication filed are shared with all parties	Fewer than 10% of adjournments are granted by the Tribunal because of deficiencies in the disclosure of evidence and written communication	
The extent to which the parties have the information needed to exercise their rights	The procedural guide is distributed to all parties within five days after the application is received	

(thousands of dollars)

Program Activity	2008–09 Actual Spending	2009–10				Alignment to Government of Canada Outcome
		Main Estimates	Planned Spending	Total Authorities	Actual Spending	
Reprisal Hearings Program	836	1,828	1,828	1,835	944	Government Affairs
Total	836	1,828	1,828	1,835	944	

Contribution of Priorities to Strategic Outcome

Operational Priorities	Type	Status	Linkages to Strategic Outcome
Continue to prepare for Tribunal hearings	Previously committed to	**Successfully met** The Tribunal is ready to hear reprisal complaints. Procedures for effective case management were established and a Procedural Guide developed. A case book containing Canadian jurisprudence on the disclosure of wrongdoing and the protection of disclosers was compiled. The Registry developed an information management system that will allow staff to easily and quickly register, retrieve and manage documents pertaining to cases.	The Tribunal exists to hear reprisal complaints referred by the Public Sector Integrity Commissioner. Complainants to the Office of the Public Sector Integrity Commissioner are protected against reprisals through orders issued by the Tribunal. The Tribunal can issue remedies in favour of complainants and remedial action against persons who take reprisals against public servants who disclose wrongdoing.
Inform interested persons, key stakeholders and Canadians	Previously committed to	**Successfully met** The Registry continued to implement its communication plan. It redesigned its website to be more client-focused and invited departments and agencies to post a short message about the Tribunal on their intranet sites. Information sessions on the Tribunal were made available to senior officers responsible for receiving disclosures of wrongdoing in departments and agencies. The rules of procedure and the procedural guide will be posted on the website once they are approved by the new Chair.	The whole premise of the wrongdoing disclosure regime is that public servants will be more inclined to report wrongdoing if they know that they are protected, in law, against reprisals. Therefore, it is critical that public servants know about the Tribunal and its mandate.

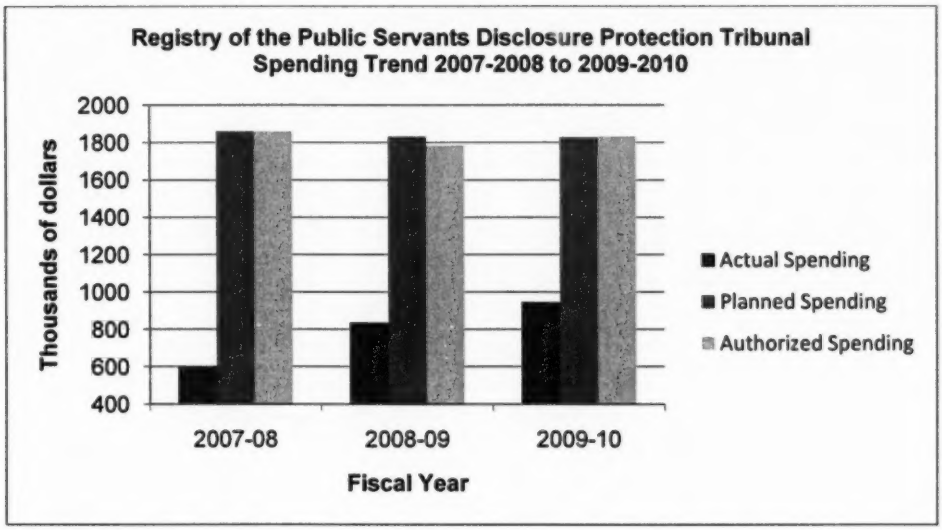
Operational Priorities	Type	Status	Linkages to Strategic Outcome
Monitor issues arising from the application of the *Public Servants Disclosure Protection Act*	Previously committed to	**Successfully met** The Tribunal completed two studies: a comparative analysis of Canadian statutory regimes for the disclosure of wrongdoing and the protection of disclosers, and alternative procedures available to public servants who disclose wrongdoing and suffer reprisals. These studies will help inform the review of the Act in 2012.	The Treasury Board Secretariat is required to conduct an independent review of the PSDPA in 2012, five years after the coming into force of the Act. The review will assess the extent to which the procedures established under the PSDPA have encouraged public servants to disclose wrongdoing and protected them from reprisals. The Registry will be actively involved in this review.
Management Priorities	**Type**	**Status**	**Linkages to Strategic Outcome**
Management excellence	Previously committed to	**Successfully met** Financial resources were managed with prudence and probity and with due regard to economy, efficiency and effectiveness. The Registry obtained positive results from a horizontal audit on the management of its IT assets.	The Registry provides administrative and legal support to the Tribunal, established to ensure that complainants to the Office of the Public Sector Integrity Commissioner are protected against reprisals.

Risk Analysis

Most of the risks facing the Registry are related to its small size. Because the Tribunal was without a Chairperson in 2009-10 and because it has not received any cases since its inception in 2007, the Registry is operating with a minimum staffing complement. While this is a sound strategy from a financial perspective, it does present challenges on the human resources front. With a staff of four, the organization does not have the capacity to handle issues of a corporate nature that require specialized knowledge and experience. Furthermore, should a case be referred to the Tribunal, the Registry may not have the staff needed to support the members.

The Registry has put in place a variety of measures to mitigate these risks in the short and medium term. As a result, it is confident that it will be able to continue meeting its corporate responsibilites and effectively deal with a case should one be referred to the Tribunal. However, in the longer term, it may be worthwhile considering alternative means of supporting the Tribunal. One option may be for the Registry to co-locate and share human resources with similar organizations.

Expenditure Profile



Voted and Statutory Items

(thousands of dollars)

Vote # or Statutory Item (S)	Truncated Vote or Statutory Wording	2007–08 Actual Spending	2008–09 Actual Spending	2009–10 Main Estimates	2009–10 Actual Spending
1	Operating expenditures		777	1,644	835
(S)	Contributions to employee benefit plans		59	184	109
	Total	600	836	1,828	944

SECTION II: ANALYSIS OF PROGRAM ACTIVITIES BY STRATEGIC OUTCOME

Strategic Outcome

Remedial and disciplinary actions to ensure complainants to the Office of the Public Sector Integrity Commissioner are protected against reprisals.

Program Activity by Strategic Outcome

Program Activity: Reprisal Hearings Program					
2009–10 Financial Resources (thousands of dollars)			**2009–10 Human Resources (FTEs)**		
Planned Spending	**Total Authorities**	**Actual Spending**	**Planned**	**Actual**	**Difference**
1,828	1,835	944	12	4	8

Expected Results	Performance Indicators	Targets	Performance Status	Performance Summary
Effective management of the Tribunal's proceedings	Number of decisions and/or orders issued within 250 calendar days from the start of a proceeding	90% of proceedings are completed within 250 calendar days	The objectives could not be evaluated during the reference period	Given that no cases have been referred to the Tribunal, it is currently impossible to evaluate the management of proceedings against the performance indicators.
	Degree to which the evidence and written communication filed are shared with all parties	Fewer than 10% of adjournments are granted by the Tribunal because of deficiencies in the disclosure of evidence and written communication		
	The extent to which the parties have the information needed to exercise their rights	The procedural guide is distributed to all parties within five days after the commencement of the proceeding		

Benefits for Canadians

Canadians have a right to expect that public sector employees will behave ethically and in accordance with their legal obligations. The Tribunal is one component of a regime designed to encourage public servants to disclose wrongdoing. The Tribunal's success, and that of the other parties, will help create an environment in which employees can openly raise concerns without fear of reprisal. It will also contribute to the development of a culture within the public service that espouses the highest standards of ethical conduct.

Performance Analysis

The Tribunal pursues one strategic outcome: remedial and disciplinary actions that ensure complainants to the Office of the Public Sector Integrity Commissioner are protected against reprisals. The Reprisal Hearings Program is the only program activity that contributes to this strategic outcome. Three indicators have been established to measure the Tribunal's performance: the number of decisions and/or orders issued within 250 calendar days from the start of a proceeding, the degree to which the evidence and the written communication filed are shared with all parties and the extent to which the parties have the information needed to exercise their rights. It is not possible to assess the Tribunal's performance against these measures since no reprisal complaints were referred to the Tribunal during the reference period.

Lessons Learned

Because the Tribunal has not received any cases since its inception in 2007, it is impossible to draw any lessons from its program activity (the Reprisal Hearings Program).

SECTION III: SUPPLEMENTARY INFORMATION

Financial Highlights

(in dollars)

Condensed Statement of Financial Position At end of Fiscal Year (March 31, 2010)	% Change	2008–09	2009–10
ASSETS		168,045	128,854
Total Assets		168,045	128,854
TOTAL	(30%)	168,045	128,854
LIABILITIES		437,519	242,847
Total Liabilities	(80%)	437,519	242,847
EQUITY		(269,474)	(113,993)
Total Equity	236%	(269,474)	(113,993)
TOTAL	(30%)	168,045	128,854

(in dollars)

Condensed Statement of Financial Operations At end of Fiscal Year (March 31, 2010)	% Change	2008–09	2009–10
EXPENSES		1,122,365	1,191,846
Total Expenses	6%	1,122,365	1,191,846
REVENUES		-	-
Total Revenues		-	-
NET COST OF OPERATIONS	6%	1,122,365	1,191,846

Financial Statements

Financial statements are available on the website of the Public Servants Disclosure Protection Tribunal Canada at: http://www.psdpt-tpfd.gc.ca.